

Rule 2007.2. Appointment of Patient Care Ombudsman in a Health Care Business Case

(a) ORDER TO APPOINT PATIENT CARE OMBUDSMAN. In a chapter 7, chapter 9, or chapter 11 case in which the debtor is a health care business, the court shall order the appointment of a patient care ombudsman under § 333 of the Code, unless the court, on motion of the United States trustee or a party in interest filed not later than 20 days after the commencement of the case or within another time fixed by the court, finds that the appointment of a patient care ombudsman is not necessary for the protection of patients under the specific circumstances of the case.

(b) MOTION FOR ORDER TO APPOINT OMBUDSMAN. If the court has ordered that the appointment of an ombudsman is not necessary, or has ordered the termination of the appointment of an ombudsman, the court, on motion of the United States trustee or a party in interest, may order the appointment at any time during the case if the court finds that the appointment of an ombudsman has become necessary to protect patients.

(c) APPOINTMENT OF OMBUDSMAN. If a patient care ombudsman is appointed under § 333, the United States trustee shall promptly file a notice of the appointment, including the name and address of the person appointed. Unless the person appointed is a State Long-Term Care Ombudsman, the notice shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, patients, any other party in interest, their respective attorneys and accountants, the United States trustee, and any person employed in the office of the United States trustee.

(d) TERMINATION OF APPOINTMENT. On motion of the United States trustee or a

party in interest, the court may terminate the appointment of a patient care ombudsman if the court finds that the appointment is not necessary for the protection of patients.

(e) MOTION. A motion under this rule shall be governed by Rule 9014. The motion shall be transmitted to the United States trustee and served on the debtor, the trustee, any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d), and such other entities as the court may direct.

Rule 2007.2 COMMITTEE NOTE

Section 333 of the Code, added in 2005, requires the court to order the appointment of a health care ombudsman within the first 30 days of a health care business case, unless the court finds that the appointment is not necessary for the protection of patients. The rule recognizes this requirement and provides a procedure by which a party may obtain a court order finding that the appointment of a patient care ombudsman is unnecessary. In the absence of a timely motion under subdivision (a) of this rule, the court will enter an order directing the United States trustee to appoint the ombudsman.

Subdivision (b) recognizes that, despite a previous order finding that a patient care ombudsman is not necessary, circumstances of the case may change or newly discovered evidence may demonstrate the necessity of an ombudsman to protect the interests of patients. In that event, a party may move the court for an order directing the appointment of an ombudsman.

When the appointment of a patient care ombudsman is ordered, the United States trustee is required to appoint a disinterested person to serve in that capacity. Court approval of the appointment is not required, but subdivision (c) requires the person appointed, if not a State Long-Term Care Ombudsman, to file a verified statement similar to the statement filed by professional persons under Rule 2014 so that parties in interest will have information relevant to disinterestedness. If a party believes that the person appointed is not disinterested, it may file a motion asking the court to find that the person is not eligible to serve.

Subdivision (d) permits parties in interest to move for the termination of the appointment of a patient care ombudsman. If the movant can show that there no longer is any need for the ombudsman, the court may order the termination of the appointment.